

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION

IN RE:)	CHAPTER 7
)	
JAIDAI GIA'IVIONNI)	CASE NUMBER: 15-61477
Debtor,)	
)	
CITY OF DANVILLE AND)	
PITTSYLVANIA COUNTY HABITAT)	
FOR HUMANITY)	
Movant,)	
)	
v.)	
)	
JAIDAI GIA'IVIONNI,)	
)	
and)	
)	
ANDREW S. GOLDSTEIN, TRUSTEE,)	
)	
Respondents.)	

**MOTION FOR RELIEF FROM STAY AND
REQUEST THAT BANKRUPTCY RULE 4001 (a)(3) NOT APPLY**

NOW COMES CITY OF DANVILLE AND PITTSYLVANIA COUNTY HABITAT FOR HUMANITY (hereinafter "**Movant**"), a creditor of the above-referenced debtor, and moves the Court pursuant to 11 U.S.C. § 362(d) for an Order allowing relief from the automatic stay. In support of said Motion, Movant shows the Court the following:

1. JAIDAI GIA'IVIONNI, formerly known as Dee Imgrahm (the "**Debtor**") filed a voluntary petition pursuant to Chapter 7 with this Court on August 3, 2015.
2. The Debtor is the record owner of real property located at 536 Hughes St, Danville, Virginia bearing parcel ID 24006, and having Tax Map No. 50-2-14 ("**Property**").
3. Movant is the holder of a secured claim against the Debtor. Debtor gave Movant a promissory note in the principal sum of \$35,214.84 dated August 17, 2006 (the "**Note**") and

granted Movant a beneficial interest in the Property by deed of trust, dated August 17, 2006, and recorded in the land records for the City of Danville as Instrument No. 06-3894, page 145, on August 17, 2006 (“**Deed of Trust**”). The amount owed on the Note, inclusive of interest, and other permissible charges for fees and expenses was \$23,193.26 on August 2, 2015. Interest continues to accrue on the Note at the rate of \$1.9063 per day. A copy of Movant’s proof of claim with supporting documents is attached hereto and incorporated herein as **EXHIBIT A**.

4. Debtor has failed to make regular contract payments to Movant on the Note. Debtor made a partial payment of \$162.90 on November 1, 2014, but has failed to make any further payments. Debtor’s pre-petition delinquency in contract payments through August 2, 2015 totals \$5,234.82.

5. Debtor has failed to maintain hazard insurance on the Property as required by the Deed of Trust.

6. Debtor has failed to pay real estate taxes as they come due on the Property as required by the Deed of Trust.

7. For purposes of this motion only, the current fair market value of the Property, based upon its current tax assessed value is \$54,300. Debtor values the Property at \$285,000 in her bankruptcy schedules.

8. Cause exists to grant Movant relief from stay, because of Debtor’s failure to make timely payments, maintain hazard insurance on the Property, and pay real estate taxes on the Property as they come due.

9. Movant specifically requests that the preliminary and final hearing on this Motion be consolidated.

10. Movant requests that should relief from stay be granted as is requested in this Motion that the ten-day stay period of Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure not apply and not be effective as to any Order entered.

WHEREFORE, City of Danville and Pittsylvania County Habitat for Humanity prays that the Court:

1. Modify the Stay as follows:

- a. Modify the stay to permit City of Danville and Pittsylvania County Habitat for Humanity to proceed with foreclosure of the Property under its Deed of Trust in accordance with State law; and
 - b. Provide that the ten-day stay period of Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure not apply and not be effective as to any Order for relief from stay entered; or
2. In the alternative, Condition the Stay as follows:
 - a. Require that Debtor immediately cure her delinquency on the Note by making direct payment to Movant in the amount of \$5,234.82, obtaining hazard insurance on the Property and paying all delinquent real estate taxes owed on the Property; and
 - b. Condition the Stay on Debtor's timely payment of all future mortgage payments beginning with her October 5, 2015 payment to Movant; and
 - c. Award Movant its reasonable attorneys' fees incurred to protect its interests in Debtor's bankruptcy case; and, in either alternative
3. Grant such other and further relief as the Court deems just and appropriate.

This 28th day of September, 2015. Respectfully Submitted,

**CITY OF DANVILLE AND PITTSYLVANIA
COUNTY HABITAT FOR HUMANITY**

By Counsel

Counsel:

Darren W. Bentley, VSB #48092
CLEMENT WHEATLEY
549 Main Street (24541)
P. O. Box 8200
Danville, VA 24543-8200
TELEPHONE: (434) 793-8200
FAX: (434) 793-8436

By: /s/ Darren W. Bentley
Darren W. Bentley

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of September 2015, the foregoing Motion for Relief from Stay and Request that Bankruptcy Rule 4001(a)(3) not Apply was filed electronically with the U. S. Bankruptcy Court and was served on the following parties, electronically on those parties who are CM/ECF participants, and by U.S. Postal Service on those parties who are non-CM/ECF participants:

Jaidai Gia'Ivionni
536 Hughes St
Danville, VA 24541
Pro Se Debtor

Andrew S. Goldstein
P. O. Box 404
Roanoke, VA 24003-0404
Chapter 7 Trustee

/s/ Darren W. Bentley
Darren W. Bentley